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3 May 1985

MEMORANDUM FOR: General Counsel
Director, Office of Security
Chairman, SECOM
Director, Office of Information Services/DDA
Chief, ALD/OGC
Chief, ICA/OGC

FROM:

Chief, Legislation Division/OLL

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SUBJECT: OMB Request for Comments on H.R. 271

1. OMB has requested the Agency's views on the attached bill (Tab A) H.R. 271, which would amend the National Security Act of 1947 to establish by law procedures on the classification of national security information and also would impose criminal penalties for unauthorized disclosure of classified information. You will recall that the Agency was recently asked for its views on this same bill by the bill's sponsor, Representative Bennett. Given the inability of the Agency to provide meaningful comments on the bill without going through the OMB clearance process, a non-substantive letter was sent to Mr. Bennett (Tab B) thanking him for his interest in this area and promising to inform him of the Administration's position on his bill once a formal decision was reached. With respect to OMB's request for comments on Mr. Bennett's bill, we are now in a position to offer substantive comments on this proposal if we so choose.

2. Mr. Bennett's bill would establish, by statute, many of the substantive and procedural classification procedures which are presently set forth in Executive Order 12356. Certain of the bill's provisions, however, would resurrect various definitions and classification procedures that existed under the Carter Administration's executive order on classification (Executive Order 12065). The bill also would criminalize the unauthorized disclosure of classified information. This portion of the bill is somewhat similar to the proposal contained in this year's intelligence authorization bill, although its scope is much broader in that it would attempt to criminalize disclosures by members of the press and other nongovernment employees who disclose information which they know, or have reason to know, is classified to a person not authorized to receive it.

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3. I would appreciate your advice as to how we should respond to OMB on this bill. With respect to the bill's classification provisions, we can broadly oppose these classification procedures as being an inappropriate subject for legislation given the Executive Branch's prerogatives in this area, or we can offer specific comments on each of the bill's individual provisions. As to the leaks portion of the bill, I would appreciate your views as to whether we should follow the approach taken in the attached letter to Representative Bennett and withhold specific comments on this provision until the Administration has had an opportunity to comprehensively review the leaks area or, instead, offer comments which parallel (or simply attach) the draft leaks provision contained in our intelligence authorization bill.

4. I would appreciate receiving your views on H.R. 271 by 15 May 1985.

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Attachments

Tab A
Tab B

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1 - D/OLL w/o attachments
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LEG/OLL [] pap (6 May 85)

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